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Memorandum for His Excellency, the Governor of New York, in Opposition to An Act Entitled "To Regulate the Exhibition of Motion Pictures, Creating a Commission Therefor, and Making an Appropriation Therefor."

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New York, May 4th, 1921.

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Memorandum for His Excellency, the Governor of New York, in Opposition to An Act Entitled "To Regulate the Exhibition of Motion Pictures, Creating a Commission Therefor, and Making an Appropriation Therefor."

The Governor is not part of the legislature, but he is constituted as a possible check or restraint upon legislation. *People vs. Morton,* 156 N. Y., 136.

This Act must be presented for his approval. This Act cannot become a statute unless he sign it.

At the hearing the Governor stated precisely the question now before him—"Is this legislation wise or unwise?"

This question admits discussion of

(A) The nature of the legislation;

(B) The wisdom of legislation of such nature in this instance; and

(C) The wisdom of the scheme of the Act itself. And unless there be crisis or emergency in the affairs of the commonwealth that requires *instant* action by legislation, it is germane to consider whether this Act as a statute may be subject to sound judicial objection.

We were told at the hearing that the Supreme Court had decided (236 U. S. 230) that censorship over moving pictures was lawful, as if that foreclosed discussion. With due deference I submit that the basis of the decision made upon the Ohio statute is that the moving picture enterprise is a business. The inference that *therefore* it should be censored would apply to a newspaper, to a book, or to a drama—all business enterprises.

(A) THE NATURE OF THE LEGISLATION.

The Supreme Court went far. Its decision does not foreclose discussion whether the principle of censorship should be applied in this instance. We may still assert that any censorship is an extreme and drastic measure that should be resorted to only as a finality of legislation contrary to, if not contradictory of, the fundamentals of liberty in this Republic. A statute for censorship under the Police Power one of the sovereign powers of the State is not to be lightly passed. It should be based on reason, nor is it to be enacted arbitrarily or capriciously. *People vs. Griswold,* 213 N. Y. 97, per Miller, J., for the Court. The need should be crying and cogent.

As late as 1904 Professor Freund in his standard work on the Police Power said: (Page 421)

> "The Criminal law is generally adequate for "dealing with obscene plays or shows—*People vs.* "*Doris,* 14 App. Div. N. Y. 117. Censorship does "not exist in America and may be regarded as "prohibited by the spirit of the Constitution— "*Daily vs. Supreme Court,* 112 Cal. 114."

(B) THE WISDOM OF LEGISLATION OF SUCH NATURE IN THIS INSTANCE.

This act imposes censors upon a legitimate business, one not only innocent but capable of being educational and instructive. The business is not in the category of the dram shop, the bowling alley, or the shop for the sale of drugs, nor one that supports the burden of justifying its existence. In fine, its character does not require nor does not justify license regulation. We venture the statement that in hundreds of moving pictures exhibited daily in this state there is nothing to criticise and much to commend, not only as innocent amusement but as instructive and enlightening, even to the teaching of some

moral lesson. Of course, this business in its nature admits of wrong doing. What business does not by abuse or by perversion? Pictures may be objectionable, but the question remains—is censorship necessary? Obscene or indecent or immoral or sacrilegious pictures are offences against the criminal law. It is the approved American doctrine that the criminal law alone should deal with them. In this state beyond dispute the law is adequate: *Muller's* case, 96 N. Y. 408; *People vs. Doris*, 14 App. Div. 117; and even by specific provisions, Section 1141, of the Penal Law. It is no argument for censorship to say that the criminal law, although adequate, is not enforced. The answer is that the criminal law should be enforced. The Ency. Brit., Vol. 26, 737, 738, says:

> "Lord Chesterfield's objection in the House of Lords was not unreasonable—'If the players are to be punished, let it be by the laws of their country and not by the will of an irresponsible despot.'" * * *

We were told at the hearing of some instances of offending, but we were not shown one instance when an enforcement of existing criminal laws and statutes could not have ended the evil and have punished the offender. Dereliction of duty under the existing law is no justification for new law such as this.

(C) As to the act:

We were told at the hearing that there are to be no censors. Duties, not nomenclature, define an office. So we shall term these motion picture commissioners "censors." Under this act the business cannot exist without the censors' license or permit as to each film. The censors are dictators as to each piece of merchandise. Not only must the censors refuse a license if they think the film or *any part* thereof is "obscene, indecent, immoral,

inhuman or sacrilegious," but also must they so do if they think that the film or *any part* thereof would "tend to corrupt morals or to incite to crime." Whether a film or a part of a film is "obscene," "indecent," "immoral" or "sacrilegious" might be left to the judgment of such censors as the Governor and the Senate might select. Words are things and these words are plain enough. Trial jurors *ex necessitate* determine obscenity and the like, and may well do so; but there is this difference indicated by the striking comment of Montesquieu in his "Spirit of the Laws":

> "In the exercise of the Police Power it is rather the magistrate that punishes than the law; in the judgment of crimes it is rather the law that punishes than the magistrate."

But what of the word "inhuman," that means "wanting in human kindness;" and what of powers conferred by the words "or is of such character that its exhibition would tend to corrupt morals or incite to crime"? Can the "personal equation" (to adopt the phrase of McKenna, J.) go further than this? It is a far cry from pornography to purity. But what of the duty cast on the censors to refuse license not in that the film—*the whole picture*—may "tend to corrupt morals or incite to crime," but *to refuse license if any part of a film may do so?*

The censor of a film must be a psychologist, a thought-reader for the multitude. Yet these censors must decline license or permit for the film if *a part,* in their judgment, offends this act. The censor does not, of course, consider spectators ignorant of the existence of immorality or of crime until apprised by the picture. Any portrayal of the human comedy of life (not a phase of it) may incidentally involve immorality or even crime. "To err is human." The most famous, indeed the most elevating,

biographies of human beings, even in sacred history itself, involve acts of immorality or acts forbidden by law. The lesson of life is not that immoral acts meet with instant punishment, or that crimes are whipped of justice. If so, there would be no merit in virtue.

It is the story *as a whole* that may picture the ultimate regeneration of man or woman—the ultimate retribution for wrongdoing that teaches the lesson. The "personal equation" might move a censor authorized or required to judge the whole film by *any part thereof,* to hold that the theft of the silver candlesticks by Jean Valjean "incites to crime;" and yet what lesson more beautiful than that of "Les Miserables," which really develops from that theft? Or the censor might say: "This *part* of the film depicts Hester Prynne with the "A" upon her breast, and so it tends to corrupt morals," and yet what story beyond "The Scarlet Letter" makes for the purity of man and woman, and promises them ultimate regeneration? The part of a film of "Ivanhoe" that showed Front de Boeuf's treatment of Isaac of York could be said to be "inhuman;" as so the part of a film that showed cannibalism on Robinson Crusoe's Isle, or Squeers' treatment of Smike in "Nicholas Nickleby."

It cannot be said that these illustrations are far-fetched when we remember that a school board in Brooklyn debated the morality of reading Longfellow's "Building of the Ship," in that the ship "leaps into the ocean's arms"; that Swinburne by excision indicted with forceful power Tennyson's "Idylls of the King" as immoral, or that the picture of that sweet and innocent book, "Bootle's Baby," was censored in Pennsylvania so as to cut the incident of a husband burning his wife's letter after he had read it.

So far as our examination shows, not a statute in any other state—Ohio, Kansas or Pennsylvania—authorizes the censors to *excise a film,* in order to determine from a part whether the whole film may tend to corrupt morals or incite to crime.

The Supreme Court had before it the Ohio statute. But the Ohio board is authorized to pass such films as are moral, educational or amusing and harmless. The test, therefore, is a very broad one. It is safe to assume that if the film *as a whole* is moral, although there may be parts that are inhuman, parts that are sacrilegious, parts that might be said to be incentive of crime, it may be approved by the Ohio board. It is clear that the Ohio statute does not require that the villain of the piece be always humane, be always religious or that his criminal methods be consistently unattractive. It is sufficient that the picture *as a whole* be moral, that virtue is rewarded, that vice does not prosper. Sec. 10744 of the Gen. Statutes.

We reiterate that under this New York Act, however, *if a part of the film* depict an inhuman deed, though it be subsequently punished, or a sacrilegious act, that is sufficiently condemned, or a fall from grace that is eventually atoned for, the license may be unattainable, or attained only at the price of robbing the picture of all meaning, all value and all truth. It is the whole film that should be judged—the whole life that affords the lesson. Milton, in his "Areopagitica," says:

> "Assuredly we bring not innocence into the world, we bring impurity much rather; that which purifies us is trial, and trial is by what is contrary. That virtue therefore which is but a youngling in the contemplation of evil, and knows not the utmost that vice promises to her followers, and rejects it, is but a blank virtue, not a pure; her whiteness is but an excremental whiteness; which was the reason why our sage and se-

> rious poet Spenser (whom I dare be known to think a better teacher than Scotus or Aquinas), describing true temperance under the person of Guion, brings him in with his palmer through the cave of Mammon, and the bower of earthly bliss, that he might see and know, and yet abstain."

And as a practical matter we must remember that these powers are not exercised in *advance* of the manufacture of the film but *after* it is complete for final production. It is common knowledge that a film may have cost $100,000 or $1,000,000 to prepare. Only after the full outlay is the film ready for the censor. Therefore, the censor, in the panoply of such enormous power, may refuse the license if he think that the film, *or any part,* is of such character as may tend to corrupt morals or incite to crime.

CONSIDERATION OF SECTION 4.

The Legislature necessarily cast this police power of censorship upon agents, but the Legislature safeguarded such drastic power by committing it to persons of "education and experience for the duties of the office" selected by the Governor with the advice and consent of the Senate (Sec. 1). And then by Sec. 3 the Legislature nullified if not destroyed these safeguards by providing that these censors might appoint as many deputies as might be needed, and by Sec. 4 that the *censors "shall vest these deputies with authority to issue licenses or permits."* Any office of the many authorized (Sec. 4) may be in charge of a deputy (Sec. 4). *The deputy is made a censor.* He is not subject to report to his chief for his chief's action or for supervision or for review or for confirmation of the deputies' decision. So far as the Act is concerned, the deputies are censors. This power is as full and complete and final as that of the censors appointed by the Governor and the Senate. To reiterate, the censors shall select as many deputies as

they deem necessary and *shall* make each deputy a censor. The only necessary limit on the number of *censor-appointed censors* may be that of the appropriation. If any deputy is required and appointed he must be a censor. "Shall be vested by the commission," is the phrase. *Delegatus non potest delegare.*

DISCUSSION OF LICENSE AND PERMIT AND PARTICULARLY OF SECTION 7.

It is plain that the scheme of the Act contemplates a license or a permit for every film. (Secs. 5 and 6 and 12.) Sec. 5 relates to licenses; Sec. 6 to permits. Permits are of three kinds, (a) "used films", (b) current event films, (c) scientific and educational films,and films intended solely for "educational, charitable or religious purposes" (Sec. 6). It seems that for the kind last specified no fee is charged (Line 16, Sec. 6). For the other permits a fee is charged (Sec. 8). *A permit validates a film as much as a license, the difference is in the character of the film.*

Sec. 7 provides that any permit may be revoked by the commission five days after notice in writing is mailed to the applicant named in the petition. Nothing could be more arbitrary. There is no provision for hearing, no ground presented for the revocation, no requirement for statement of reasons for revocation even in the notice. And there is no provision for review even by the full commission as prescribed for *licenses* in Sec. 10, and there is no provision for legal scrutiny or review by certiorari as prescribed for *licenses* by Sec. 10, and successive revocation is permitted. It cannot be contended that Sec. 10 affords any review *for permits.* For it is expressly limited to a license. And plainly enough "license" is not generic so as to cover permits for the Act repeatedly distinguishes license and

permit. For example, Sec. 5, "License"; Sec. 6, "Permits; Sec. 8, " a license or a permit"; Sec. 9, "No license or permit"; "Sec. 11, "License and permit void"; "Any license or permit; Any change; After license or permit; Any outstanding license or permit (Sec. 12); Valid license or permit (Sec. 13); Any permit or license (Sec. 13).

Let us consider further the effect of said Sec. 7.

It is true that there is a rule that permits are not necessarily contracts or property and therefore may be revocable. *(People ex rel. Lodes vs. Department of Health,* 189 N. Y. 187.) But there is also a rule declared in that same case that a distinction exists between permits under which a vested right may be acquired and those in which such rights do not vest (same case, pp. 192, 196, citing *Matter of Lyman,* 160 N. Y., 96; *City of Buffalo vs. Chadeayne,* 134 N. Y., 163; *Dobbin vs. Los Angeles,* 195 U. S. 223, and *City of Lowell vs. ~~Archibuilt~~ Archambault,* 189 Mass. 70). The license in *Matter of Lyman, supra,* was regarded as property (as Haight, J., says in *Lodes'* case, 189 N. Y. at 192), because it could be transferred, sold and assigned to other persons. In *Buffalo vs. Chadeayne, supra,* the defendant under the permit had finished his building and had made his contracts and incurred liability and therefore had a property interest.

It is likely that an applicant who had contracted for a current event film, or a scientific or educational film, or an instructive film (Sec. 6), would make a large outlay of money for its exhibition, or incur obligation for the same purpose. The permit is his authority and justification. He is thus within the second rule or exception of *People ex rel Lodes, supra,* and the cases cited. Yet after all this, after the long lapse of time the censor without preliminary hearing without statement of his reasons, can, by a simple notice mailed, after 5 days re-

voke the permit. The film becomes an unlawful thing. The outlay may be a total loss. And the permit holder has no redress. A permit may be transferred or assigned. One may ask also what defense the original holder could make to any action arising out of his obligations that he may have incurred.

Sec. 7 is practical confiscation by fiat without reason stated, and by fiat without the right of review. True, the permit holder has the poor privilege of applying for a license, but the mischief has been done, the wrong committed. And what chance has he of procuring a license after the permit is revoked?

Discussion of Section 11.

In addition to the examination of the film prescribed by Sec. 5, Sec. 9 requires an application "in writing in the form, manner and substance prescribed by the commission'." These are general words. There is no statutory ~~experience~~ expression even as to the essentials of the application—no limitation upon the censors. Yet Sec. 11 provides any license or permit issued upon a "false" or "misleading" affidavit or application shall be wholly void *ab initio*. Who pronounces upon the falsity or the misleading? The censor, first and last. "Falsity" is one thing. "Misleading" is another. Who first and last and finally says the censor has been misled? The censor himself. *He* declares that *he* has been misled. There may have been no just ground for that conclusion. It may be that a third person or court or judge would decide that there was no substantial ground for that conclusion. But there is no provision for review. Even the certiorari of Sec. 10 is only for refusal of a license. *Censor ipse dixit.*

Sec. 11 also provides, "Any change or alteration" in a film after license or permit, except the elimination of a part or except upon written

direction of the censor, shall be a violation of this Act and shall also make immediately void the license or permit therefor. We take the Act as written. Not any change or alteration that *offends the statute* in that the change introduces a feature that is obscene, indecent, immoral, inhuman, sacrilegious, etc., but *any change or alteration.* As the statute reads the licensee cannot change or alter even in the most innocent or innocuous way. If he does he violates the Act and thereby commits a misdemeanor (Sec. 14) and makes void the permit. To revoke the license or permit which may have resulted in vested rights is bad enough, but why make the offender, who may be innocent of any wrongdoing in itself, who may make an *innocent change* or *alteration* a criminal—a misdemeanant? A man may be perfectly innocent so far as intent is concerned and yet commit a misdemeanor. The "crime" may have been committed by a subordinate in perfect innocence, none the less is the license revoked *ipso facto* without hearing or review. The Act might have intended an *offensive* change or alteration. It does not so provide. The change or alteration may even become necessary under the local ordinance of the village, town or city where the film is to be exhibited. We read it as it is written. This observation extends to other doings forbidden by this act which are declared misdemeanors by Sec. 14 and are therefore crimes. Intent need not be an element of a misdemeanor. The offender may have been innocent of intentional wrong and yet violate the law—he may have been the mere innocent subordinate and yet the crime (misdemeanor) be committed. The Court may even suspend sentence yet the crime exist with all the consequences declared by this act. (See *Life Photo.* v. *Bell*, 90 Misc. 469, AS TO HOW IN DIRECT CENSORSHIP BY LOCAL OFFICIALS RESULTS)

Discussion of Section 9.

Sec. 9 provides for a serial number which is a permanent part of principal title, etc. This in the parlance of the business is called "a trailer." Illustration may show the hardship.

A picture is to be shown at the Capitol or one of the other Broadway theatres as a *prémière* exhibition. The approval of the censors has been delayed—perhaps unavoidably. All such performances as this are usually advertised weeks in advance. The statute contemplates that the "trailer" provided for in Sec. 9 should be attached to the picture, showing that it has been censored and approved. The "trailer" has been ordered; 8:15 P. M. arrives; the curtain is about to go up; the operator discovers the "trailer" has not come from the printing establishment; he gets the order from the assistant manager of the theatre (who may not be an employee of the producing or exhibiting company). The picture is shown without the "trailer." This is a misdemeanor under Section 9 of the statute, and a conviction of this offense, although the film has been licensed and approved, *ipso facto* revokes the license.

Discussion of Section 11.

Section 11 provides a crime committed by the exhibition, or unlawful possession of any film in the State of New York shall *per se* revoke any "outstanding" license or permit for said film. How is a crime committed by the exhibition of a film if there be an "outstanding license or permit for it? Unless perhaps the film may be exhibited changed and altered as heretofore discussed.

Discussion of Section 12.

Section 12 relates to unlawful use or exhibition. Under its provisions it is unlawful to exhibit "in connection with any business in the State of New York" unless there is at the time in full force and effect a valid license or permit, etc. It may be concluded that the act intends an exhibition for the advertising purposes of any business. But it is not the question what the act intends. If the manufacturer in the State of a film exhibits it in his salesroom or manufactory privately for trade purposes of sale to an exhibitor is this not an exhibition in connection with his (the manufacturer's) business and therefore with "a business in the State of New York"? Why should the manufacturer before he can do this thing be required to obtain a license or permit and pay for it? Suppose he exhibits to a possible purchaser for use in another State. It is unlawful unless he pay the license fee. And thus the license fee which is intended to apply in the regulation under the police power is in fact a license fee for the doing of business—an unjust perversion.

Does the Act violate Section 9, Article 1, of the Federal Constitution?

For example, the Interocean Film Company is one of several whose business is that exclusively of export, and theirs is merely a place of business in New York. They sell to all over the world from their place of business in New York. Under the existing statute every reel shown to their foreign customers must first be licensed, although it is being exhibited to a customer for export only and this customer is himself a non-resident of the state and a representative of foreign film buyers.

Is this not practically a tax on exports? If so we ask a reading of the second paragraph of Sec. 10 of the same article of the Federal Constitution.

In addition to this, the practical effect would be to drive all printers of films for export out of New York into some other state where it would not be necessary, as under the present proposed statute, to pay a fee on every reel printed for export and submit it in advance to the censorship.

DISCUSSION OF SECTION 10.

Section 10 provides for a review by the full commission and by certiorari. The censor is thereby made a jury, whose action cannot be disturbed unless the Court would set aside a verdict of a jury as against the weight of evidence. We know how rarely are verdicts thus disturbed.

The very term "Certiorari" implies review of the evidence that was before the censors. The duty of the censor is to examine promptly every motion picture film. There is but one way to examine the picture—view thereof. Surely the relator in Certiorari is not to be judged by the report and the description of the censors mentioned in Section 5. That is not the *evidence.* The picture itself that must be presented on screen is the best evidence of its character. *People* v. *Chicago,* 209 Ill. App. 582. See, too, *People* v. *Scheutler,* Id. 588; *Production Corp.* v. *Comm.,* 95 Ohio, p. 400.

Imagine a Court upon a Certiorari to review the censors, with the courtroom that must be turned into a moving picture exhibition room with lowered lights and all of the paraphernalia.

DISCUSSION OF SECTION 13.

The maker may have a film which has been licensed as free from all criticism. He naturally may have sold it to many persons. Section 13 provides that if any exhibitor makes an obscene, indecent or immoral or sacrilegious poster, banner or similar advertising matter as to the film the commission may revoke *"any permit or license issued by the commission."* Doe may have made an entirely proper film beyond criticism and have sold it to a hundred exhibitors. Roe (one of them in some remote town) may advertise the picture against this Statute. *Doe,* 500 miles away, is entirely innocent. And yet the Statute, to say the least, is loosely expressed as to permit revocation of "any permit or license." Of course the limitation should have been made as to the permit or license of the offender.

Finally we again lay stress upon those many provisions of the act discussed heretofore which in effect may destroy property that exists in these films, and impair if not destroy vested rights. Such confiscation or forfeiture is not an exercise of the police power, but is "intended as rather a punishment for an unlawful act." Hence there should be judicial proceedings, either personal notice to the owner, or at least proceedings *in rem* with notice by publication.. *Freund on Police Power,* 526; *Caffey* v. *U. S.,* 116 U. S. 427; *United States* v. *Zucker,* 161 U. S. 475. I know *Lawton* v. *Steele,* but the turning point of that case was the value of the nets taken, $15. And see *Colon* v. *Lisk,* 153 N. Y. 188.

A STATUTE PROPER FOR OHIO OR KANSAS MAY BE AND IS IMPRACTICAL AND UNREASONABLE FOR NEW YORK.

The world market of the film industry is the State of New York, in fact New York City.

No consideration seems to have been given in the drafting of the statute to the important fact, that while Ohio and Kansas are merely local points of exhibition, that is to say, as a unit each State represents so many theatres engaged in exhibiting photo plays, that New York State, and particularly the City of New York, is the centre of the film industry, it is here that the film is bought and sold for use in every State of the Union; where practically 100% of the foreign trade is had, and where export is exclusively engaged in.

While it is true that in Ohio and possibly in Kansas large producing or distributing companies may have an office for distribution of films to the theatres of the State, it is here in New York that the film is contracted for. In any event the business, as a business, for the entire country, in fact for the whole world, is transacted in the City of New York.

It is therefore perfectly obvious that when we regulate or legislate, about film for exhibition in business; for taxation, and restraint on output, there should be definite ly and clearly in mind the distinction between New York City as a world mart and Cleveland or Sandusky, Ohio, or Topeka, Kansas, which merely represent so many theatres, dealing with a purchased or leased commodity for temporary use in their theatres.

The intendment of this statute may have been to merely regulate the exhibition of film in the theatres in New York State. That is undoubtedly the purpose of the Ohio and Kansas statutes, but if this were the Legislative intent, it is not so expressed.

Taking the bill in its several parts or in the context, the resulting language is that not only are there regulatory provisions for the conduct of the theatre proprietor, but the entire industry as a business is brought within the purview of the act.

In short, instead of censoring the performance at the theatre, it is the business itself that has been circumscribed by a censorship of rigidity, unrelaxing.

There is here no emergency that calls for the immediate exercise of the police power, like a pestilence or a crisis in the commonwealth. Without this proposed statute or any new statute there are extant penal laws applicable and indeed aimed at the offenses which invite the public and cannot be concealed.

Here is a comparatively new industry controlled by law-abiding citizens—responsible men—and involving vast sums of money and the employment of thousands of citizens. If properly conducted the industry in its nature is not alone innocent, but instructive, educational and elevating. It is the pre-eminent amusement and recreation ~~action~~ of the great masses, attended by 20,000,000 people daily, of whom many cannot afford any other. Independent of this act or of its defects, the great controllers of the industry, without whose consent and countenance the industry cannot flourish, have come forward with the promise of any needed reformation, which they too desire.

Signing the bill puts responsibility on the Commission, yet unchosen and untried—relying on their intention to carry out the most perplexing and difficult provisions—untested, novel and sure to present questions new and difficult to men without experience—and the expense is on the State.

Leaving it unsigned puts the responsibility upon most experienced men, who know the business thoroughly, whose fortunes and careers are in it, and who have given *public pledge in writing to make the needed reforms—and they bear all the expense.* Their success or failure will be decided in a few months.

And—the moving-picture managers are also subject to the penal laws, *as is every exhibitor of any film*—~~whereas~~ the penal law has nothing to do with the *censorship*—censors being only subject to removel "for inefficiency, neglect of duty, or misconduct in office"; whereas the managers are subject to *indictment* and *punishment,* as well as to loss and failure in their careers. Such co-operation avoids the otherwise inevitable conflict of interests.

We respectfully suggest that the Governor, if he feel that this particular act is defective, indefinite, imperfect, and that a better statute with fairness to all can be drawn, should not approve this Act. We must not listen alone to the self-constituted spokesman who announces that a myriad of people he assumes to represent are behind this Act. Self-exploitation often leads to exaggeration, and the assumption that others are in favor of censorship leads such exploiters to commit others to an Act which they have never read. There may be advocates for the principle who know nothing and care less for the form of legislation. There may be advocates who as laymen have no interest in legal provisions or in just safeguards. There has been no dispute that the business may be reformed in that, in its great scheme, there has been, and may be, offending. We urge that the Governor withhold his approval of the act, delegate the subject to a commission to be chosen by himself, advise the legislature to act upon its recommendations as they appeal to its reason and to his own. Let these signers of the compact be constituted a vigilance committee of their own industry. The greatest of all things is to transform evil unto good.

The statesman is not he who is mindful of the mere partisans of either side, but realizes the voiceless public sentiment of the State.

This Act should not receive the Executive approval.

Respectfully submitted,

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New York, May 4th, 1921.

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